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10
11 UNITED STATES DISTRICT COURT
12 DISTRICT OF ARIZONA

13 OSCAR JIMENEZ, individually, and on behalf)
14 of the statutory beneficiaries of)
IRIS JIMENEZ, DECEDENT)

15 Plaintiff,

No. _____

16 v.

17 THE UNITED STATES OF AMERICA

18 Defendant.
19 _____

COMPLAINT

20 Oscar Jimenez, individually and on behalf of all statutory beneficiaries of Iris
21 Jimenez, Deceased, ("Plaintiff") by undersigned counsel respectfully alleges as
22 follows:

- 23 1. Plaintiff resides within the State of Arizona.
- 24 2. El Rio Community Health Center (hereinafter "El Rio") is in Tucson,
25 Arizona and is a health center maintained through the authority of the
26 Department of Health & Human Services of the United States
27 government.
- 28 3. At all times relevant hereto, Arthi Divya Senra, M.D. (hereinafter "Dr.
Senra") was a physician employed by El Rio Community Health Center.

- 1 4. The United States of America is a body politic and through Congress of
2 the United States of America, authorized its administrative agency,
3 Health and Human Services, to federally support certain health centers
4 pursuant to the Federally Supported Health Centers Assistance Act of
5 1995 (FSHCAA), including El Rio.
- 6 5. This action arises under, and this Court has jurisdiction over Plaintiff's
7 claims pursuant to the Federal Tort Claims Act, 28 U.S.C. § 1346(b) and
8 2671, et seq.
- 9 6. At the time of the events set forth herein, El Rio and Dr. Senra were
10 employees, servants, and or agents of Defendant and were acting within
11 the course and scope of their employment or agency.
- 12 7. On March 10, 2017, Plaintiff properly filed an administrative tort claim
13 under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 1346(b), 2401
14 (b), 2671-2680. A denial of the claim was sent by letter on November 15,
15 2017, by the Department of Health and Human Services and was
16 received via certified mail return receipt requested by undersigned
17 counsel on December 1, 2017.
- 18 8. On or about June 10, 2016, Dr. Senra at El Rio failed to test, diagnose and
19 treat Iris Jimenez resulting in her death on June 11, 2016.
- 20 9. The decedent, Iris Jimenez, is survived by her three (3) adult children
21 Oscar Jimenez, Eva Jimenez-Galvan, Ana Jimenez; and her mother Eva
22 Jerez.
- 23 10. Pursuant to the doctrine of Respondeat Superior, Defendant is
24 responsible for the acts of its employees, servants and/or agents,
25 including El Rio and Dr. Senra.
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- 1 11. Defendant, by and through its agents and or employees had undertaken
2 to provide health and medical care to Iris Jimenez and was negligent in
3 the performance of its duties in failing to test, diagnose and treat Iris
4 Jimenez.
- 5 12. As a direct and proximate result of the negligence of Defendant, Iris
6 Jimenez died.
- 7 13. As a further direct and proximate result of the negligence of the
8 Defendant, Plaintiff and all statutory beneficiaries have suffered and will
9 continue to suffer the loss of love, affection, companionship, care,
10 support, protection, comfort, guidance provided by Iris Jimenez to her
11 children and Mother. Plaintiff and all statutory beneficiaries will
12 continue to suffer pain, grief, sorrow, anguish, stress, and mental and
13 emotional suffering as a result of the death of Iris Jimenez, caused by the
14 negligence of Defendant.
- 15 14. As a further direct and proximate result of the negligence of Defendant,
16 Plaintiff has incurred burial and funeral expenses.
- 17 15. The Defendant, by and through its agents and/or employees, owed a
18 duty to Iris Jimenez to exercise that degree of reasonable care, skill and
19 prudence possessed by other licensed health care providers under the
20 same or similar circumstances.
- 21 16. Defendant negligently breached its duty to Iris Jimenez, Deceased and
22 Plaintiff which resulted in the death of Iris Jimenez and the damages
23 continued to be suffered by Plaintiff and all statutory beneficiaries.
- 24 17. The care, treatment, management, supervision, and practices by the
25 Defendant, by and through its agents and/or employees, in its care and
26 treatment of Iris Jimenez, were negligently, carelessly and unskillfully
27 performed. The Defendant fell below the standard of care and skill
28 expected of health care providers in the same or similar circumstances.

1 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- 2 1. For general damages in the amount to be proven at trial;
- 3 2. For special damages, including but not limited to past and future
- 4 expenses, and all other expenses associated with the death of Iris
- 5 Jimenez;
- 6 3. For Plaintiff's costs herein; and
- 7 4. For some other and further relief as the court deems fair and appropriate
- 8 and available pursuant to the Federal Tort Claims Act.
- 9

10 Dated this 16th day of January, 2018.

/s/ B. Elliot Gysen

B. Elliot Gysen
Counsel for Plaintiff

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